the principle of laisser-faire, the motive of competition was not considered material. *Citizens Light H. & P. Co.* v. *Montgomery Co.*, 171 Fed. 553, 560. Many courts still follow this doctrine: some apparently on the basis of authority, *Mogul Steamship Co.* v. *McGregor*, L. R. 23 Q. B. 598; *Boyson* v. *Thorn*, 98 Cal. 578, 33 Pac. 492, 21 L. R. A. 233; *Guethler* v. *Altman*, 26 Ind. App. 587, 60 N. E. 355, 84 Am. St. Rep. 313, others because they believe an inquiry into the motives of men when their actions are lawful is neither wise nor politic, *Passaic Print Works* v. *Ely*, 105 Fed. 163. Numerous courts oppose these views, holding that harm done with intent and malice cannot be legalized because lawful means were used in its accomplishment. *Purington* v. *Hinchliff*, 219 Ill. 159, 76 N. E. 47, 2 L. R. A. (N. S.) 824; *Barr* v. *Essex Trades Council*, 53 N. J. Eq. 101, 30 Atl. 881. The most difficult phase of this question arises in cases concerning modern industrial warfare. Most authorities would agree that the true test of legitimate competition is "reasonable conduct under the circumstances." *Huskie* v. *Griffin*, 75 N. H. 345, 74 Atl. 595, 27 L. R. A. (N. S.) 966. When the question is one for the jury, as the principal case holds, the rule seems a feasible one. But when it is decided by the court, it aids the situation but little, for courts immediately differ as to what is reasonable and as to whether malicious motive affects the test. The line is well drawn in *Tuttle* v. *Buck*, 107 Minn. 145, 119 N. W. 946, 22 L. R. A. (N. S.) 599. Yet it would seem that the court in the principal case goes one step further in restricting the limits of competition, for while the motive in the Minnesota case was purely personal, in the Iowa case it was apparently commercial. See 9 COL. L. REV. 455. Certainly interference with customers such as the Standard Oil Co. indulged in, hardly can be deemed legitimate means of competition, even though no contracts existed. *West Va. Transportation Co.* v. *Standard Oil Co.*, 50 W. Va. 611, 40 S. E. 591, 56 L. R. A. 804, 88 Am. St. Rep. 895; *Rice* v. *Manley*, 66 N. Y. 82, 23 Am. Rep. 30; *Doremus* v. *Hennesy*, 176 Ill. 608, 52 N. E. 924, 43 L. R. A. 797. Inevitably the decision in these cases must rest on the fundamental policies adopted by the courts. The modern tendency seems to be leading towards a broader and clearer conception of the meaning of industrial competition—a reflection of the economic and social thought of the times. See 8 HARV. L. REV. 8; 8 MICH. L. REV. 471.

WILLS—CONTEST—NATURE OF PROCEEDINGS—WHAT LAW GOVERNS—TESTAMENTARY CAPACITY.—A testatrix died domiciled in Michigan leaving personal property in the hands of an agent in New York who also had possession of the will and codicil. He applied to the surrogate of New York for the probate of the will and codicil and three of the persons interested in the estate, including the plaintiff, appeared and contested the codicil on the ground of testamentary incapacity. The surrogate admitted both will and codicil to probate, his decision never being appealed from, but subsequently the probate court in Michigan admitted the will to probate and rejected the codicil for testamentary incapacity. *Held*, that the contest of a will on the ground of testamentary incapacity is not an ordinary action or proceeding *inter partes* and did not have the effect of binding the plaintiff either *in personam* or by way of estoppel; and as testamentary capacity is governed

by the law of the domicile, the surrogate's decision, although never directly attacked, was not binding, and the estate must be administered in accordance with the will as admitted to probate in Michigan and without reference to the codicil there rejected. *Higgins* v. *Eaton* (C. C. N. D., N. Y. 1911) 188 Fed. 938.

Each State must of right determine the testamentary capacity of its own domiciled residents. WHARTON, CON. OF LAWS, § 84. Nor is one State bound by comity to follow the decisions of another State determining matters in contravention of its own domestic policy. WHARTON, CON. OF LAWS, § 656. *Clarke* v. *Clarke,* 178 U. S. 186. If the New York surrogate's decision were enforced it would have the effect both of determining the competency of the testator domiciled in Michigan and of governing the distribution of his personal estate contrary to the established rule of private international law. STORY, CON. OF LAWS, § 380, *Harrison* v. *Nixon,* 9 Pet. 483. A judgment of one State being only entitled to such faith and credit as it receives by law and custom in its own State, see *Robertson* v. *Pickrell,* 109 U. S. 608; *B'd of Public Works* v. *Columbia College,* 17 Wall. 521, it followed that the Federal Court did not consider itself bound by this decision of the New York surrogate unless complainant, by appearing and contesting the case, was bound by estoppel. Such might have been the conclusion if this had been an action *in personam.* But the decision was a determination of the right of the administration of property and consequently an action *in rem* and so not personally binding upon complainant. *Farrell* v. *O'Brien,* 199 U. S. 89, *Thorman* v. *Frame,* 176 U. S. 350. The reason of this rule is at once apparent when it is considered that estoppel, to be binding, must be mutual. As complainant would be estopped all who would profit thereby would be estopped, and this would include all the other legatees and distributees, regardless of whether they contested the will in New York or not, thus substituting the New York decree for the Michigan decree. BIGELOW, ESTOPPEL, Ed. 5, 113-115; *Goodman* v. *Niblack,* 102 U. S. 556. Therefore the executor was ordered to follow the Michigan rule of distribution, either by paying complainant personally or by transmitting the proceeds of the personalty to Michigan for distribution. *Waterman* v. *Bk. and Trust Co.,* 215 U. S. 33, 30 Sup. Ct. 10; *Wright* v. *Philips,* 56 Ala. 69.

WILLS—VALIDITY—FRAUD.—Under a statute of Pennsylvania, a gift to a charity by will is void if the testator dies within thirty days of the execution of the will. Testatrix gave her residuary estate to a charity, but executed a codicil revoking that gift and giving it to a trust company in case she died within thirty days. Testatrix had no interest in the corporation, and knew none of its stockholders or officers, except the scrivener of the will, an assistant trust officer. He, on his own initiative, drew up the codicil, informed testatrix of the law declaring testamentary gifts to charity void if testator's death ensued within thirty days of the execution of the will, and asked her whom she desired to take the property if that event occurred. *Held,* that this was an apparent effort to avoid the statute, and the knowledge of the trust officer and his participation therein constituted such a constructive fraud as to